

1 ANDRÉA L. VIEIRA, ESQ.

2 Nevada Bar No. 15667

3 THE VIEIRA FIRM

400 S. 7th St., Ste. 400

5 Las Vegas, Nevada 89101

6 Telephone: (702) 820-5853

7 Facsimile: (702) 820-5836

8 Andrea@TheVieiraFirm.com

9 *Court Appointed Pro Bono Attorney for Plaintiff*

10 **UNITED STATES DISTRICT COURT**

11 **DISTRICT OF NEVADA**

12 ROSEMARY VANDECAR, an Individual;

13 Plaintiff,

CASE NO.: 2:20-cv-02150-ART-VCF

14 vs.

15 HAROLD WICKHAM, et al.

16 Defendants.

17 **STIPULATION TO EXTEND DISCOVERY**
18 **(First Request)**

19 Plaintiff, ROSEMARY VANDECAR (“Plaintiff”), through her attorney, Andréa L.
20 Vieira, Esq. of THE VIEIRA FIRM hereby Defendants NEVADA DEPARTMENT OF
21 CORRECTIONS (NDOC), JAMES BAUMGRAS, KARISSA CURRIER, MARQUISE L.
22 FRANKLIN, NICOLE HOLSTON, GABRIELA GARCIA-NAJERA, DEAN MEDEIROS,
23 JENNIFER NASH, DWIGHT NEVEN, RONALD OLIVER, DARIO SANCHEZ, ANDREW
24 TRUJILLO, and HAROLD WICKHAM, (collectively “Defendants”) through their attorneys
25 record, Aaron D. Ford, Esq. and Leo T. Hendges, Esq, of the OFFICE OF THE ATTORNEY
26 GENERAL, respectfully submit the following Stipulation to Extend Discovery Deadlines
27 outlined in ECF No. 66 at 2:16-3:5 (First Request):

28 **I. DISCOVERY COMPLETED**

Counsel met telephonically for an FRCP 26(f) conference on January 25, 2023.

Plaintiff served disclosures pursuant to FRCP 26, as follows:

1. Initial Disclosures: February 7, 2023

Defendant served disclosures pursuant to FRCP 26, as follows:

1. Initial Disclosures: February 8, 2023

No other discovery has been completed per the parties informal agreement to hold off on discovery pending the settlement conference in this matter. The settlement conference took place on April 25, 2023.

II. DISCOVERY THAT REMAINS TO BE COMPLETED

1. Written Discovery
2. Depositions of Parties
3. Depositions of NDOC's FRCP 30(b)(6) witnesses
4. Depositions of percipient witnesses
5. Deposition of treating providers
6. Expert discovery, including expert disclosures and depositions
7. Subpoenas to third parties for records and information

III. REASONS THE REMAINING DISCOVERY WAS NOT COMPLETED WITHIN THE TIME LIMITS SET BY THE DISCOVERY PLAN

This is a complex 42 U.S.C. § 1983 case where Plaintiff is alleging constitutional violations of her First, Fourteenth, Eighth, and Fourth Amendment rights, in addition to state law tort claims of Negligence, Intentional Infliction of Emotional Distress, Concert of Action, Elder and Abuse. Defendants have filed a Motion to Dismiss and Plaintiff has filed a Motion to Amend her Third Amended Complaint.

Prior to January 25, 2023, no FRCP 26(f) conference was held, and no discovery took place. On February 8, 2023 the court entered an order setting this matter for a settlement conference for March 10, 2023.¹ On March 3, 2023, Defendants filed a Motion to Extend Deadline to Submit Confidential Settlement Statement.² Defendants' motion was granted on March 7, 2023 and the Settlement Conference was rescheduled to March 29, 2023.³ Due to the unavailability of Plaintiff's counsel on March 29, 2023, the Settlement Conference was

¹ ECF No. 68

² ECF No. 69

³ ECF No. 70

rescheduled to April 25, 2023.⁴

The settlement conference took place on April 25, 2023 but this matter did not resolve.⁵ Because this was a matter placed into the Federal Pro Bono Program, the parties were hopeful that the matter could resolve at the Settlement Conference and therefore agreed to hold off on conducting discovery until after the Settlement Conference. Since this matter did not resolve, the parties will now begin meaningful discovery and respectfully request a re-set of the discovery deadlines.

Discovery will require gathering numerous institutional records as well as discovery regarding the Defendants' personal participation in the events alleged to have violated Plaintiff's constitutional rights, and third-party discovery directed at the Nevada Department of Corrections, the Inspector General's office, and percipient witnesses.

The parties will need sufficient time to obtain, review, and analyze these records, and to take the depositions of several witnesses, including plaintiff, defendants, and ultimately, the parties' expert witnesses.

The parties respectfully submit that this revised discovery plan is an efficient and realistic schedule for completing the significant amount of discovery contemplated in this case.

IV. PROPOSED SCHEDULE FOR COMPLETING REMAINING DISCOVERY

The parties jointly propose the following discovery plan, which allows approximately 180 days to complete discovery:

	<u>Current Date</u>	<u>Proposed Date</u>
Discovery Cut-Off:	July 24, 2023	November 29, 2023
Final date to file motions to amend pleadings or add parties (without a further court order):	April 25, 2023 <i>(90 days before discovery cut-off)</i>	August 31, 2023 <i>(90 days before discovery cut-off)</i>
FRCP 26(a)(2) Expert Disclosures:		
i. Initial disclosure:	May 25, 2023 <i>(60 days before discovery cut-off)</i>	September 29, 2023 <i>(60 days before discovery cut-off)</i>

⁴ ECF No. 73

⁵ ECF No. 84

ii. Rebuttal disclosure:	June 26, 2023 <i>(30 days after initial disclosures)</i>	October 30, 2023 <i>(30 days after initial disclosures)</i>
Dispositive Motions:	August 23, 2023 <i>(30 days after discovery cut-off)</i>	December 29, 2023 <i>(30 days after discovery cut-off)</i>
Joint Pre-Trial Order:	September 22, 2023 <i>(30 days after dispositive motions)</i>	January 29, 2024 <i>(30 days after dispositive motions)</i>

~~If no dispositive motions are filed, the Joint Pretrial Order shall be filed by April 19, 2024, which is no later than thirty days after the date set for the filing of dispositive motions.~~ In the event dispositive motions are filed, the date for filing the Joint Pretrial Order shall be suspended until thirty days after the decision on the dispositive motions or by further order of the court.

The parties anticipate that, pending any unforeseen circumstances outside the parties' control, the above extension of the current discovery deadlines should allow the parties to conduct and complete the outstanding discovery.

This first request for an extension of the current discovery deadlines is made by the parties in good faith and not for the purpose of delay.

DATED: May 19, 2023.

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THE VIEIRA FIRM

OFFICE OF THE ATTORNEY GENERAL

By: /s/ Andréa L. Vieira
 ANDRÉA L. VIEIRA, ESQ.
 Nevada Bar No. 15667
 400 S. 7th St., Ste. 400
 Las Vegas, Nevada 89101
Court Appointed Pro Bono
Attorney for Plaintiff

By: /s/ Leo T. Hendges
 LEO T. HENDGES, ESQ
 Nevada Bar No. 16034
 555 E. Washington Ave., Ste. 3900
 Las Vegas, Nevada 89101
Attorneys for Defendants

ORDER

IT IS SO ORDERED.


 UNITED STATES MAGISTRATE JUDGE

5-23-2023
 DATE: _____